

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_  
 3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE STATE SUBDIVISION VARIANCE BOARD;  
 5 ALLOWING A PERSON TO REQUEST A HEARING ON A VARIANCE BEFORE THE LOCAL GOVERNING  
 6 BODY OR THE STATE SUBDIVISION VARIANCE BOARD; AND AMENDING SECTION 76-3-506, MCA."

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8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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10 NEW SECTION. **Section 1. State subdivision variance board.** (1) There is a state subdivision  
 11 variance board.

12 (2) The board consists of three members who must be state residents and are nominated by the  
 13 governor and confirmed by the senate. The members include:

14 (a) one member with expertise or a background in local government subdivision review;

15 (b) one member with a background in environmental science related to water quality; and

16 (c) one licensed engineer or registered sanitarian.

17 (3) A vacancy on the board must be filled by the governor subject to the conditions of subsection  
 18 (2).

19 (4) To meet the requirements of 76-3-506, the board shall:

20 (a) adopt procedures for submitting a subdivision variance request;

21 (b) conduct hearings to review potential variances to subdivision regulations if requested; and

22 (c) adopt subdivision variance criteria to approve, modify, or deny a subdivision variance request.

23 (5) The board is designated as a quasi-judicial board subject to the provisions of 2-15-124, except  
 24 that one of the members need not be an attorney licensed to practice law in this state.

25 (6) The board is attached to the department of commerce for administrative purposes only as  
 26 provided in 2-15-121.

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28 **Section 2.** Section 76-3-506, MCA, is amended to read:

**"76-3-506. Provision for granting variances.** (1) Except as provided in subsection (4),

~~Subdivision~~subdivision regulations may authorize the governing body, after a public hearing on the variance request before the governing body or its designated agent or agency, to grant variances from the regulations when strict compliance will result in undue hardship and when it is not essential to the public welfare.

(2) Any variance granted pursuant to this section must be based on specific variance criteria contained in the subdivision regulations.

(3) A minor subdivision as provided for in 76-3-609(2) is not subject to the public hearing requirement of this section.

(4) (a) Subdivision regulations must allow a person to request a variance from subdivision regulations before the local governing body or its designated agent or agency or before the state subdivision variance board established in [section 1].

(b) If a person requests a variance allowed in this section before:

(i) the local governing body or its designated agent or agency, the person may not request the same variance from the state subdivision variance board; or

(ii) the state subdivision variance board, the person may not request the same variance from the local governing body or its designated agent or agency.

(c) If a person requests a variance before the state subdivision variance board, the person may appeal the decision of the board to district court."

NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 2, chapter 15, part 18, and the provisions of Title 2, chapter 15, part 18, apply to [section 1].

NEW SECTION. Section 4. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

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